



SRI LANKA FOUNDATION LAW

1973

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REGULATIONS MADE THEREUNDER IN 1986 FOR
SETTING UP A COMMISSION FOR THE ELIMINATION OF
DISCRIMINATION AND MONITORING OF
FUNDAMENTAL RIGHTS

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WAL NOLAHAM FOUNDATION

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THE NOLAHAM FOUNDATION
IS A CORPORATION FOR THE PROMOTION OF
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Sri Lanka Foundation Law, No. 31 of 1973

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF A FOUNDATION CALLED THE SRI LANKA FOUNDATION ; TO SPECIFY ITS OBJECTS AND POWERS ; AND FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows :—

1. This Law may be cited as the Sri Lanka Foundation Law, No. 31 of 1973.

Short title.

2. There shall be established a Foundation which shall be called the Sri Lanka Foundation, hereinafter in this Law referred to as the "Foundation."

Establishment of the Sri Lanka Foundation.

3. (1) The Foundation shall consist of not less than ten and not more than fifteen persons appointed by the Prime Minister, who shall constitute the Board of Management of the Foundation.

Constitution of the Foundation, and the Board of Management

(2) One of the members so appointed shall be nominated by the Prime Minister as the Chairman of the Board of Management of the Foundation.

(3) The affairs of the Foundation shall be carried out by the Board of Management of the Foundation.

4. (1) Subject to the provisions of subsection (2), every member of the foundation, including the Chairman, shall hold and vacate his office in accordance with the terms of his appointment, but he may resign his office by letter addressed to the Prime Minister. He shall, on ceasing to be a member, be eligible for reappointment.

Term of office of members of the Foundation.

(2) All the members of the Foundation, including the Chairman, shall be deemed to have vacated office upon the Prime Minister ceasing to hold office as Prime Minister, and accordingly the succeeding Prime Minister shall appoint members to fill the vacancies created.

5. The aims and objects of the Foundation shall be—

Objects of the Foundation.

(a) the promotion of an understanding and belief in the democratic way of life and the protection of human rights ;

(b) the promotion in furtherance thereof, of international understanding and the co-operation in and universal respect for the observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, religion, colour or creed ;

(c) the encouragement and promotion in furtherance thereof, of educational and the acquisition and diffusion of knowledge among the masses in all branches of knowledge and social progress.

The Powers of the Foundation.

6. (1) Subject to the provisions of subsection (2), the Foundation shall have , for the purpose of achieving its objects, the power—

(a) to establish or maintain an institution or institutions or educational or social centres ;

(b) to collaborate and enter into any contract or agreement with the Friedrich Ebert Foundation of the Federal Republic of Germany registered under the Societies Ordinance of the said Republic and having its registered office at Bonn in the said Republic and other foreign international or local organizations having the same or similar objects as the Foundation ;

(c) to hold or organize meetings, conferences, tours, lectures, seminars and courses of study ;

(d) to give assistance by grants, awards, prizes, bursaries, scholarships and facilities for deserving students with educational ability or aptitude ;

(e) to give, receive or collect gifts, grants, donations, subsidies and subscriptions whether in cash or otherwise ;

(f) to collect, classify, print, publish and distribute books, journals, magazines and reading material ;

(g) to make, draw, accept, endorse, negotiate, buy, sell and issue bills of exchange, cheques, promissory notes and other negotiable instruments ;

(h) to open and maintain current, savings and deposit account or accounts in any Bank or Banks ;

- (i) to acquire and hold either as absolute or beneficial owner or as trustee or otherwise by purchase, exchange, gift, devise or bequest or in any other manner and to hold and enjoy in perpetuity or for any lesser period subject to any express trust or otherwise for the benefit or the furtherance of the objects of the Foundation any property movable or immovable of any kind or nature whatsoever ;
- (j) to invest the funds vested in or belonging to the Foundation in adequate securities or in the purchase or acquisition of such lands, buildings, goods, chattles or other property as many be proper or necessary for the purposes of the Foundation ;
- (k) to erect or cause to be erected any building or structure on any land belonging to or held by the Foundation ;
- (l) to sell, lease, exchange or otherwise dispose of any movable or immovable property belonging to or held by the Foundation subject to any trust attaching to such property ; and
- (m) to do all such acts or things as may be necessary for or conducive to the attainment of the aims and objects of the Foundation.

(2) (a) The Foundation shall not support with its funds any object of a religious, racial or communal nature.

(b) The Foundation shall not support with its funds and object or endeavour to impose on or procure the observance by its members or others of any regulation, restriction or condition which would make it a trade union.

(c) In case the Foundation shall take or hold any property, the Foundation shall not sell, hypothecate, charge, lease or dispose of the same without such authority, approval or consent as may be required by law.

7. (1) There shall be a Fund of the Foundation.

**Fund of the
Foundation.**

(2) Any moneys that may from time to time be granted to the Foundation by way of gift or otherwise or by resolution of the National State Assembly shall form part of the Fund of the Foundation.

(3) All moneys belonging to the Fund shall be applied solely towards the promotion of the objects of the the Foundation.

(4) The Foundation may utilize the moneys of the Fund for defraying all expenditure incurred in the exercise of its powers and achievement of its objects under this law.

The Foundation
to be a Corpora-
tion.

8. The Foundation shall by the name assigned to it by section 2 be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

The seal of the
Foundation.

9. The seal of the Foundation—

(a) shall be in the custody of such person as the Foundation may from time to time determine ;

(b) may be altered in such manner as may be determined by the Foundation ; and

(c) shall not be affixed to any document except with the sanction of the Foundation and in the presence of two members of the Foundation who shall sign the document in token of their presence.

Procedure for
the meetings of
the Board of
Management.

10. The Board of Management shall have the power to make rules to regulate the procedure relating to its meetings.

The Foundation
may act despite
vacancies.

11. The Foundation may act notwithstanding a vacancy among its members so long as the number of members of the Foundation is sufficient to constitute a quorum for a meeting of the Foundation according to the rules of the Board of Management.

Compulsory
acquisition of
land required by
the Foundation.

12. Any land required for the purposes of the Foundation shall be deemed to be needed for a public purpose and may be acquired by the Republic under the Land Act and transferred to the foundation.

Accounts and
audit thereof.

13. (1) The Foundation shall cause its accounts to be kept in such form and in such manner as the Minister may direct.

(2) The Foundation shall cause its books to be balanced as on the thirty-first day of December in each year and shall, before the thirty-first day of March next, cause to be prepared an income and expenditure account and a balance sheet containing a summary of the assets and liabilities of the Foundation made up to the first-mentioned date. The income and expenditure account and the balance sheet shall be signed by the Chairman of the Foundation, and by such officer of the Foundation as may be authorized by the Foundation to do so.

(3) The Foundation shall have its accounts audited each year by the Auditor-General. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor who shall act under his direction and control.

(4) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Foundation the Auditor-General shall be paid from the funds of the Foundation such remuneration as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance. Any remuneration received from the Foundation by the Auditor-General shall, after deduction of any sums paid by him to any qualified auditor employed by him for the purpose of such audit, be credited to the Consolidated Fund.

(5) For the purposes of this section, the expression "qualified auditor" means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Ceylon, possesses a certificate to practise as an Accountant issued by the Council of that Institute ; or
- (b) a firm of Chartered Accountants each of the partners of which, being a member of that Institute, possesses a certificate to practise as an Accountant issued by the Council of that Institute.

(6) The Auditor-General and any person assisting him in the audit of the accounts of the Foundation shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Foundation, as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the members or officers of the Foundation with such information within their knowledge as may be required for such purposes.

(7) The Auditor-General shall examine the accounts of the Foundation and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Foundation; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to the National State Assembly in any examination of the activities and accounts of the Foundation.

(8) The Auditor-General shall transmit his report to the Foundation.

Annual report.

14. (1) The Foundation shall annually prepare a written report of the Foundation's work and finances during the year completed, including any information furnished to, and directions given by the Minister and shall transmit to the Minister—

- (a) a copy of such report ;
- (b) a copy of the income and expenditure account and balance sheet in respect of such year certified by the Auditor-General ; and
- (c) a copy of the Auditor-General's report.

(2) The Minister shall lay copies of the reports and statements referred to in subsection (1) before the National State Assembly.

State land and
State building.

15. Any State land or any State building may, subject to such conditions as may be determined by the Minister

with the concurrence of the Minister for the time being in charge of the subject of State lands, be made available for the use of or be alienated to, the Foundation for the purpose of the Foundation or for the residence of any officer or servant of the Foundation.

16. (1) The Foundation shall be exempt from the payment of any customs duty on any goods imported by the Foundation if the Minister in consultation with the Minister in charge of the subject of Finance approves of such exemption.

Exemptions from certain duties and taxes.

(2) In the case of any instrument containing any agreement between the Foundation and any other person and providing for making a payment to the Foundation as a contribution to the general support of the Foundation's work, both the Foundation and such other person shall be exempt from the payment of any stamp duty on such instrument.

(3) Any person making a payment to the Foundation as a contribution to the general support of the Foundation's work, may claim the amount of the payment as a deduction from income, in the year in which the payment is actually made, for the purposes of computing liability for income tax, and the payment shall be deemed not to be a taxable gift for the purposes of the Inland Revenue Act, No. 4 of 1963.

(4) The Foundation shall be exempt from the payment of any rates under the Municipal Councils Ordinance.

Amendment of Section 16 of Law No. 31 of 1973.

(5) The provisions of this section shall have effect notwithstanding anything to the contrary in the Customs Ordinance, the Stamp Ordinance, the Inland Revenue Act, No. 28 of 1979, and the Municipal Councils Ordinance.

17. (1) No suit or prosecution shall lie against any member, officer, servant or agent of the Foundation for any act which in good faith is done or is purported to be done by him under this Law or on the direction of the Foundation.

Protection of members &c., of the Foundation for action taken under this law or on the direction of the Foundation

(2) Any expense incurred by the Foundation in any suit or prosecution brought by or against the Foundation before any court shall be paid out of the funds of the

Foundation, and any costs paid to, or recovered by, the Foundation in any such suit or prosecution shall be credited to the funds of the Foundation.

(3) Any expense incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Law or on the direction of the Foundation shall, if the court holds that such act was done in good faith, be paid out of the funds of the Foundation, unless such expense is recovered by him in such suit or prosecution.

No writ to issue
against person or
property of a
member of the
Foundation.

18. No writ against person or property shall be issued against a member of the Foundation in any action brought against the Foundation.

Regulations.

19. (1) The Foundation may make regulations generally for the purpose of giving effect to the principles and provisions of this Law and particularly in respect of any matter which is stated or required by this Law to be prescribed, or for or in respect of which regulations are required or authorized by this Law to be made.

(2) No regulation made under this Law shall have effect until it is approved by the Minister, confirmed by the National State Assembly, and published in the *Gazette*.

Transitional.

20. (1) From and after the coming into operation of this Law, any contractual arrangements made and entered into by the Friedrich Ebert Foundation of the Federal Republic of Germany, registered under the Societies Ordinance of the said Republic, with a company limited by guarantee, registered in Sri Lanka under the Companies Ordinance, and called "The Lanka Foundation", shall be deemed to be null and void.

(2) The Sri Lanka Foundation may upon such terms and conditions as are mutually agreed upon with the Friedrich Ebert Foundation, make new arrangements for the continuation of any work and the completion of any project in progress under such contractual arrangements as are referred to in subsection (1).

REGULATIONS approved by His Excellency J. R. Jayewardene, President of the Democratic Socialist Republic of Sri Lanka, the Minister to whom the subject Sri Lanka Foundation is assigned and confirmed by Parliament on the 24th of July, 1986.

COMMISSION FOR THE ELIMINATION OF DISCRIMINATION AND MONITORING OF FUNDAMENTAL RIGHTS
REGULATIONS, 1986

SRI LANKA FOUNDATION LAW, No. 31 OF 1973

WHEREAS, in terms of Section 5 (a) of the Sri Lanka Foundation Law, No. 31 of 1973 one of the objects of the Foundation is the protection of human rights ;

And whereas in furtherance of this object the Foundation deems it necessary to work towards the elimination of discrimination on the grounds of race, religion, language, caste, sex, political opinion or place of birth, and to monitor the observance of fundamental rights, by the establishment of a Commission therefor ;

Now, therefore, in the exercise of the powers conferred upon it under Section 19 of the Sri Lanka Foundation Law, No. 31 of 1973, the Foundation hereby makes the following regulations which have been approved by the President —

1. These regulations may be cited as the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights Regulations, 1986.

2. There shall be, for the purposes of these regulations, a body to be known as the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights (hereinafter referred to as "the Commission") the object of which shall be to work towards the elimination of unlawful discrimination and to monitor the observance of fundamental rights and shall for this purpose have the following powers and duties :

- (a) to study, investigate, hold public or private hearings on alleged discriminatory acts and to prepare reports thereon ;

- (b) to keep under review, study and collect information concerning legal developments constituting discriminatory acts and alleged violations of fundamental rights and to prepare and disseminate information thereon ;
- (c) to receive, investigate and endeavour to relieve by mediation, or such other means as is specified in these regulations, discriminatory acts ;
- (d) to take such action by way of conference, mediation and conciliation as may be requested by the Supreme Court in the course of the hearing of a petition filed before it on alleged discriminatory acts or on alleged infringements or imminent infringements of fundamental rights (including those affecting minorities).

3. For the purpose of these regulations, "discrimination" shall mean unjust discrimination on the grounds of race, religion, language, caste, sex, political opinion or place of birth, by the Government, a public corporation, a local authority, a business undertaking owned by the government or any public company in which the government holds more than fifty per centum of the share holding and the expression "discriminatory act" shall be construed accordingly.

4. The Commission shall consist of not more than ten members appointed by the President in consultation with the Chief Justice, from amongst persons who are competent and experienced in matters relating to law, administration, medicine, science, engineering, banking or social service. One of the members so appointed shall be nominated by the President, to be the Chairman of the Commission.

5. (a) Every member of the Commission shall hold office for three years.

(b) The office of a member shall become vacant—

- (i) upon the death of such member ;

(ii) on such member resigning his office by a writing addressed to the President ;

(iii) on such member being removed from office by the President, at the request of the majority of members of the Commission and/or at the request of the Chairman ;

(iv) on the expiration of his term of office.

(c) The functions of the Commission shall be exercised by three or more members of the Commission constituted as set out herein.

6. For the purpose of carrying out its powers and duties the Commission shall take such action as may be required by these regulations and do all such acts or take all such steps as may be necessary or conducive to the attainment of its objects, including the summoning of such persons and the receiving of such evidence as may be necessary.

7. (1) For the purpose of these regulations, there shall be an Advisory Board which shall consist of the following members.—

(a) the Chairman of the Sri Lanka Foundation ;

(b) the Attorney-General ;

(c) the Secretary to the Ministry of the Minister in charge of the subject of Justice ; and

(d) three other members nominated respectively, by the Chairman of the Sri Lanka Foundation, the Attorney-General and the Secretary to the Ministry of the Minister in charge of the subject of Justice.

The provisions of paragraphs (a) and (b) of regulation 5 shall, *mutatis mutandis*, apply to the term of office of, and vacation of office by, the members nominated under paragraph (d).

(2) Where the Attorney-General or the Secretary to the Ministry of the Minister in charge of the subject of Justice is unable to attend any meeting of the Board,

the Attorney-General or such Secretary may nominate an officer of his department or the Ministry, as the case may be, to represent him at such meeting of the Board.

8. It shall be the function of the Advisory Board to advise the Sri Lanka Foundation as to the manner in which the objects and purpose of these regulations shall be carried out.

THE DIRECTOR

9. (1) There shall be a Director for Human Rights who shall be appointed by the Sri Lanka Foundation in consultation with the Advisory Board, subject to the approval of the President.

(2) The Director shall have the power to do all such acts and take all such steps as may be necessary for, or incidental to the performance of his functions under these regulations in accordance with such directions as may be given by the Sri Lanka Foundation.

(3) For the purpose of carrying out his functions under these regulations the Director shall have such staff including conciliators and legal personnel as shall be determined by the Sri Lanka Foundation on the advice of the Advisory Board.



PROCEDURE

10. (1) Any person who alleges that he has been the victim of a discriminatory act may make a complain within one hundred and eighty days of the occurrence of the alleged discrimination to the Director.

(2) The complaint shall be in such manner as to apprise the Director as to the time, place, and facts surrounding the alleged unlawful discriminatory act.

11. (1) Upon receipt of the complaint, the Director shall make such inquiries as may be necessary to ascertain the facts relating to the complaint and for this purpose shall invite such persons as may be necessary.

(2) On being satisfied after such inquiry that there is reasonable justification for the complaint, the Director shall invite all parties concerned and shall endeavour to settle or adjust any complaint by means of conference, mediation and conciliation within six weeks of the receipt of the complaint.

(3) Where, after such inquiry, the Director is of the opinion that the complaint is unjustified he shall inform the complainant of his decision within eight weeks of the receipt of the complaint.

(4) Where the Director is unable to settle or adjust the complaint by mediation or conciliation, he shall forward forthwith to the Commission, the complaint together with a full report thereon.

12. Any person aggrieved by the decision of the Director under regulation 11 (3) may within two weeks of the receipt of the decision, appeal from such decision to the Commission.

13. On receipt of a complaint under regulation 11 (4) or an appeal under regulation 12, a panel of three or more members of the Commission shall be constituted by the Chairman of the Commission and such panel shall—

(a) wherever necessary inquire or cause inquiry to be made into the complaint ;

(b) endeavour to settle or adjust any complaint by means of conference, mediation and conciliation ;

(c) where appropriate, inform the complainant that no further action on his complaint will be taken by the Commission and shall communicate to him the reasons therefor.

14. Wherever a matter is referred to the Commission by the Supreme Court under regulation 2 a panel of three or more members of the Commission shall be constituted by the Chairman of the Commission and such panel shall hold an inquiry or take such action as may be requested by the Supreme Court and make return thereto.

15. Where the Commission forms the opinion after such inquiry and conference that a discriminatory act is disclosed but that it is not possible to remedy the situation by means of conference, mediation and conciliation, a confidential report shall be forwarded to the President setting out the matters in issue and containing recommendations to remedy the discrimination caused.

16. The Director may, refer any matter of public interest relating to a discriminatory act to the Commission and thereupon a panel of not less than five members of the commission shall be constituted by the Chairman the Commission and such panel shall within six months and after such inquiry as may be necessary, submit a report thereon to the President. Such report shall contain, where appropriate, recommendation as to the manner in which the alleged discrimination may be remedied.

17. The Director may delegate any power or duty conferred, or imposed, on him by these regulations to any such member of his staff as is referred to in paragraph (3) of regulation 9.

GENERAL

18. In these regulations :

“Fundamental Rights” shall mean such Fundamental Rights as are referred to in Chapter III of the Constitution of the Democratic Socialist Republic of Sri Lanka.

“President” shall mean the President of the Democratic Socialist Republic of Sri Lanka.

H. W. JAYEWARDENE,
Chairman,
Sri Lanka Foundation.

Colombo, June 17, 1986.

Vidyabhandara Press, Kelaniya